

**REMARKS**

Claims 8-16 are all the claims pending in the application. Applicants thank the Examiner for indicating that claim 16 is allowed.

**Drawings**

The Examiner has not indicated approval of the drawings filed October 2, 2003.

Applicants respectfully request approval of the drawings in the next Office paper.

**Information Disclosure Statement**

The Examiner has indicated that because the Information Disclosure Statement filed October 2, 2003 includes the parent serial number on the PTO/SB/08, and because the reference was previously considered in the parent application, the Examiner has not considered the IDS. The inclusion of the parent serial number in the PTO/SB/08 form was clearly an error, as evidenced by the Information Disclosure Statement filed in concurrence with the form, as well as all the other documents filed concurrently with the PTO/SB/08 form, which correctly cited the application and associated paperwork as a continuation of the parent application. During a telephone call with the Examiner on July 1, 2004, the Examiner indicated that since the parent serial number was inadvertently included in the PTO/SB/08 form, the form was never matched with the application file and therefore not considered. Accordingly, Applicants submit herewith a copy of the IDS, PTO/SB/08 form, and the OIPE date-stamped filing receipt, as originally filed. Consideration of the reference cited in PTO/SB/08 is thereby respectfully requested.

## Claims

Claim 16 is objected to because of informalities. Applicants amend the claim to remove any ambiguities.

Claims 8-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,683,439.

Applicants respectfully submit that claims in the pending application define an invention that is not merely an obvious variation of an invention claimed in the cited patent and the claimed subject matter is patentably distinct from the subject matter claimed in a commonly owned patent.

Only claim 5 of the cited U.S. Patent specifies function of the claimed components in relation to the operation of the power switch. Specifically, according to the subject matter of claim 5 of the cited U.S. Patent, the trigger detector detects that the power switch is turned ON, and in response to the ON signal generated from the trigger detector, the controller allows the DC power to be supplied to the tool and prohibits the battery pack from being charged. The claims of the cited U.S. Patent do not explicitly define that the controller allows the DC power to be supplied to the battery pack for charging when the trigger detector detects that the power switch is turned OFF. Therefore, the claims of the cited U.S. Patent can reasonably be construed to cover at least two cases, one case in which the battery pack is placed in a chargeable condition where charging the battery back may not be immediately performed when the trigger detector detects that the power switch is turned OFF, and the other case in which the battery pack is placed in a charging condition in which the battery pack is forcibly charged when the trigger detector detects that the power switch is turned OFF.

On the other hand, according to the method claims of the divisional application, a DC voltage is supplied from the DC power source to the tool when the power switch is turned ON and the DC voltage is supplied from the DC power source to the chargeable battery pack when the power switch is turned OFF. That is, charging the battery pack is immediately started when the power switch is turned OFF. It would not be obvious for a person skilled in the art as to how and when charging the battery pack is to be performed when the use of the tool is interrupted, i.e., when the power switch is OFF, absent the teaching of desirability of the timing at which charging the batter pack is started. It is respectfully noted that the method claims of the subject application are restricted by specifying “supplying said DC voltage from said DC power source to said chargeable battery pack to charge said battery pack, when said power switch is t rued off”.

For the reasons stated above, Applicants respectfully request the Examiner to withdraw the prior art rejections.

### **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Appln. No. 10/676,035

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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